

**Notice of Allowability**

Application No.

09/555,362

Examiner

Joseph T. Voitach

Applicant(s)

BRADFIELD ET AL.

Art Unit

1632

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/5/2005.
2. ☒ The allowed claim(s) is/are 10,16-20 and 44-47.
3. ☒ The drawings filed on 30 May 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☒ hereto or 2) ☒ to Paper No./Mail Date 12.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br><i>copy of paper #12</i> | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____         | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                  | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

### **DETAILED ACTION**

This application is a 371 national stage filing of PCT/US98/25314, filed November 28, 1997, which claims benefit to US provisional application 60/066,863, filed November 28, 1997.

Applicants amendment filed January 5, 2005, has been received and entered. The specification has been amended. Claims 1-9, 11-15, 21-43 have been canceled. Claims 10, 16, 18 and 20 have been amended. Claims 44-47 have been added. Claims 10, 16-20 and 44-47 are pending.

It is noted that the current amendment to the claims has two claims numbered 45. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

The second misnumbered claim 45 has been renumbered 47.

### ***Election/Restriction***

Applicant's election of Group I was acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP 818.03(a)), and the species of MOP3 and MOP9 will be examined together.

***Specification***

The nucleotide sequence disclosure contained in this application complies with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825.

***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

As noted previously, the complete polynucleotide sequences of MOP 3 and MOP9 set forth as SEQ ID NOs: 3 and 9, and encoding the complete polypeptide sequences set forth as SEQ ID NOs: 12 and 18 are free of the art of record. Newly added claims 45-47 are drawn to embodiments that are free of the art of record, because they encompass stretches of fully complimentary sequence to SEQ ID NO:9 that are free of the art of record. The amendment to the claims have differentiated the claimed invention from that in the prior art of record,

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached at (571) 272-0735.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Voitach

JOSEPH WOITACH, PH.D.  
PRIMARY EXAMINER

*for W. J.*  
*AU1632*